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Decision by Mike Croft, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-200-2041.
- Site address: 3 Bank Avenue, Milngavie, Glasgow, G62 8NG.
- Appeal by Mr Paul Gilbride against the decision by East Dunbartonshire Council.
- Application for planning permission ref TP/ED/16/0696 dated 4 October 2016 refused by notice dated 31 January 2017.
- The development proposed: the erection of a new detached house, and alterations and extensions to the existing detached house.
- Application drawings: see annex 1.
- Date of site visit by Reporter: 19 April 2017.

Date of appeal decision: 31 May 2017.

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## Decision

I allow the appeal and grant planning permission subject to the 10 conditions listed at annex 2. Attention is drawn to the three advisory notes at annex 3.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the Glasgow & Clyde Valley Strategic Development Plan (2012) and the East Dunbartonshire Local Development Plan (2017). There is no suggestion that the first of these has any significant bearing on this case. The local development plan was adopted (and so became part of the development plan for the purposes of this appeal) in February 2017. The submissions in this case were made substantially in relation to the local development plan's predecessor, the East Dunbartonshire Local Plan 2 which had been adopted in 2011. However, at my request the parties have indicated which policies of the new local development plan they consider support their cases in this appeal, and I have taken account of those submissions. The appeal site lies within the Tannoch Conservation Area, and that means that special regard must be had to the preservation or enhancement of the conservation area. No objection is raised to the proposed alterations and extensions to the existing house, and I have no such objection.

2. Therefore, having regard to the provisions of the development plan and bearing those other points in mind, the main issues in this appeal are therefore whether the proposed house would (a) fail to at least preserve the character and appearance of the conservation area and/or (b) harm the living conditions of nearby residents.



### *Character and appearance of the conservation area*

3. There are two main policy requirements in the local development plan. One is a requirement in policy 2 for developments of all scales to accord with 9 specified design and placemaking principles, one of which is that the development is to be designed to ensure a positive impact on the character, function and amenity of the surrounding area, including compatibility with existing uses. The other requirement, in policy 10, is for development within a conservation area to preserve or enhance its character and appearance.

4. I saw during my visit to Milngavie that much of the existing development in the conservation area dates from the Victorian period. That development includes large detached and semi-detached villas set within spacious plots. The buildings are usually of stone, with slate roofs. Substantial mature vegetation on the plot boundaries is often associated with such development, and that vegetation is often a dominant feature in views from the roads. But there are also contrasting areas such as Montrose Gardens (about 100 metres from the appeal site) with smaller plots and houses closer together. The conservation area also includes water areas, including Tannoch Loch just beyond Montrose Gardens. I also note that the appeal site is on the edge of the conservation area, the site's western boundary coinciding with the conservation area boundary.

5. The appeal site is set within a part of the conservation area which has large detached Victorian houses with well treed boundaries, but the existing house there is more modern and it is of brick. The appeal project includes the cladding of the existing house in natural blonde sandstone. Another very important characteristic of the appeal site is a difference in levels: it falls steeply west of the existing house, and it is on the lower level that the new house would be built.

6. Although the council considers that the appeal project presents a policy conflict, I find the assessments of the council's officer (who recommended permission) and the appellant more persuasive. Although the new house would be three storeys high (in contrast to the more usual two storeys here) it would be built on the lower part of the existing curtilage, resulting in its roof ridge height being 3.4 metres lower than the existing house within the site and lower than all of the immediate neighbours. The new house would differ in design from the existing detached villas nearby, but the existing house already presents contrasts in design terms. As I have mentioned, tree cover is important in the conservation area. In this case I am satisfied that, with appropriate protection measures, there would be little impact on the boundary trees. I bear in mind that most of the boundary tree cover is deciduous, but my assessment – and my site inspection was at a time when most of the trees were only just coming into leaf – is that the retained tree cover on the appeal site boundaries would mean that the new house would not have a significant presence in most private views in the locality. I consider one exception to this in paragraph 12 below. The existence of that boundary tree cover, together with other trees in the vicinity (protected where they lie within the conservation area), takes me to a similar conclusion about public views from nearby roads.

7. The main parties disagree about the impact of splitting the existing plot into two. The new house would have a plot of 0.10 hectare. That is smaller than many in the locality, but there are already two plots smaller than that on Bank Avenue. It is also significant from my observations in the locality that it is often difficult to detect differences in plot size from the

public domain. I also note, and accept, the council officer's view that both the new house and the existing one would have adequate garden ground.

8. There is no objection to the use of sandstone as the main material for the new house, but exception is taken to the substantial use of copper on its roof and its eastern, southern and western walls. The council contends that this has particular potential to harm the character of the surrounding area as copper is not typically found on domestic properties and is not a characteristic of traditional Scottish architecture other than on grand civic buildings in an urban context. To the council it would appear as an incongruous and overly prominent feature. I am more inclined to the view that this can be regarded as a design element using a high quality material that may contrast visually with the local environment but which is not necessarily harmful to that environment. Also relevant here are my remarks above about the limited visual presence of the new house.

9. Overall, and bearing in mind all the other points made about the design of the new house in its locational context, it is my view that the house would, at worst, do little harm to the local scene. It is a carefully designed, individual house to be inserted into a site (that is unusual given its varying levels) amid other individual houses. Its impact on the character of the conservation area would be limited. It would clearly preserve the conservation area's character and appearance. My assessment is that it is satisfactory so far as issue (a) is concerned.

*Living conditions of nearby residents.*

10. Local development plan policy 2 is relevant to this issue as well as to issue (a), with its requirement for developments to be designed to ensure a positive impact on the amenity of the surrounding area, including compatibility with existing uses.

11. 4 Bank Avenue is a detached house to the north of the appeal site, with a large garden. Concern is expressed particularly about two proposed bridges that would link the upper floor of the new house (containing the main living rooms) with a covered parking area in the higher part of the site. The more northerly of the two bridges would be only 1.8 metres from the site's boundary with 4 Bank Avenue. It is contended that this would be intrusive to number 4's garden and would result in noise and loss of privacy. I agree that there is likely to be some impact in these terms on that part of the garden nearest the more northerly bridge, but I consider that impact would be limited to that small area. That small area is some 20 metres and more distant from the house at number 4 and is located obliquely to the main elevation of number 4.

12. 6 Mosspark Road lies to the south-west of the appeal site. It is a detached house with a garden that adjoins the full extent of the appeal site's western boundary. That garden tapers to a point about 100 metres from the house at number 6. The proposed house would come to within 1.3 metres of the garden boundary, and it would be seen as a tall structure from the nearest part of the adjacent garden. In this context the council refers to the development being overbearing and over-dominant. But the nearest part of the new house would be over 40 metres from the house at number 6, and number 6's garden is clearly very extensive: quite apart from its length as noted above, it has a maximum width of about 30 metres and that maximum is reached near the location of the new house. It

seems to me that the impact on the living conditions of those at number 6 must be seen in that context, and that context makes the impact more limited.

13. I am satisfied also that, because of the design and location of the new house and the distances between it and nearby houses, there would be no serious problems of overlooking or loss of daylight or sunlight. I therefore come to the conclusion that the new house would be satisfactory so far as issue (b) is concerned.

*Other matters and overall conclusion*

14. Having reached the position that the new house succeeds on both main issues, there is no other consideration that takes me from the conclusion that planning permission should be granted. The council's officer recommended the imposition of 11 conditions had the council granted permission, and the council seeks the imposition of those conditions in the event of a permission now. The appellant is content with those conditions. I follow the thrust of the council's suggestions with the following exceptions. One of the council's conditions sought a pre-start meeting to consider tree protection barriers, but as that condition left the outcome of such a meeting unclear I impose a requirement for details to be submitted and approved: that does prevent a pre-start meeting being held as a means of reaching the required position. I also combine the council's three conditions on flooding and drainage into one. Having consulted the main parties on the point, I add a condition to ensure the visual advantage of cladding the existing house in natural blonde sandstone as part of the project as mentioned in paragraph 5 above.

15. With those conditions in place, I conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

*Mike Croft*

Reporter

## Annex 1: application drawings

000/16 101	Location plan
000/16 102	Existing house floor plans and elevations
000/16 103	Location plan - surrounding area
000/16 104 rev A	Proposed block plan
000/16 105	Site plan - topographical survey etc
000/16 106	Proposed east and west elevations
000/16 107	Proposed north elevation
000/16 108	Proposed south elevation
000/16 109	Proposed lower ground floor plan
000/16 110	Proposed ground floor block plan
000/16 111	Proposed mid floor plan pf new house
000/16 112	Proposed roof plan second house, existing house second floor plan
000/16 113	Existing house: existing and proposed west and east elevations
000/16 114	Proposed cross sections

## Annex 2: conditions

1. The development hereby permitted shall be carried out in accordance with the submitted Tree Survey and Arboricultural Implications Assessment (dated 5 December 2016) and the recommendations therein. *[Reason: to ensure effective tree protection during the construction phase.]*
2. No development hereby permitted shall take place until details of tree protection barriers which will form a construction exclusion zone around retained trees have been submitted to and approved in writing by the planning authority. *[Reason: to ensure effective tree protection during the construction phase.]*
3. No development hereby permitted shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the planning authority. The boundary treatment shall be completed before completion or occupation of the buildings, whichever is sooner. The boundary treatment shall be carried out in accordance with the approved details and permanently retained. *[Reason: to ensure the provision of an adequate boundary treatment.]*
4. No development hereby permitted shall take place until cross-sectional plans which clearly show the extent of the development on the site, its finished floor levels and ridge levels, the levels of all adjacent land and buildings and their relationship to the proposed development, have been submitted to and approved in writing by the planning authority. The development shall be carried out in accordance with those approved details. *[Reason: for the avoidance of doubt.]*
5. During the period of construction, all works and ancillary operations which are audible at the site boundary, or at such other places as may be agreed with the planning authority, shall be carried out only between 0800 and 1900 hours on Mondays to Fridays

inclusive, between 0800 and 1300 hours on Saturdays and at no time on Sundays or bank holidays. *[Reason: to protect the living conditions of nearby residents.]*

6. No development hereby permitted shall take place until details of the proposed Wendy house have been submitted to and approved in writing by the planning authority. The Wendy house shall be constructed in accordance with those approved details. *[Reason: for the avoidance of doubt.]*

7. No development hereby permitted shall take place until details of a speed reducing measure (in the form of road hump or access narrowing), to be installed in the existing driveway of 3 Bank Avenue, have been submitted to and approved in writing by the planning authority. That measure shall be constructed before the first occupation of the new house in accordance with those approved details. *[Reason: in the interests of highway safety.]*

8. No development hereby permitted shall take place until a construction methodology statement has been submitted to and approved in writing by the planning authority. This shall include details of the provision and programming of any temporary access route and junction, site compound office, workers' parking provision, wheel washing facilities, material store areas and the operation and location of security lights. The provision and programming of those measures shall be in accordance with the approved statement. *[Reason: to ensure safe access and minimise disruption during the construction phase.]*

9. No development hereby permitted shall take place until (a) a plan showing 1 in 200 year pluvial flooding overland routes and how these will be contained on site, (b) calculations for the design of the drainage network and (c) a letter of acceptance from Scottish Water (stating the agreed and allowable discharge route of surface water to their infrastructure, and the calculations for the design of the drainage network) have been submitted to and approved in writing by the planning authority. *[Reason: in the interests of flood prevention and satisfactory drainage.]*

10. The new house hereby approved shall not be occupied until the cladding of the existing house in natural blonde sandstone has been completed in accordance with the approved plans. *[Reason: to ensure the satisfactory appearance of the project overall.]*

### **Annex 3: advisory notes**

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).